



Abortion Access in the Americas: *Country-Specific Information*

Brazil— In Brazil, 200,000 women are hospitalized each year because of complications arising from unsafe abortions, according to statistics by the Health Ministry.¹ Traditionally, the Catholic Church in Brazil has held great power over social issues such as abortion. In March 2009, the Archbishop of Brazil came under fire by Brazilians when he excommunicated everyone involved in the legal abortion of a nine year old girl who was raped and impregnated with twins by her stepfather.² This abortion was legal under Brazilian law because it was due to rape and the girl's life was in danger.³ In spite of this, there has been draft legislation introduced in Brazil that would grant absolute protection for the "unborn".⁴ Advocates have urged Brazilian lawmakers to vote against this legislation, stating that it violates Brazil's international human rights obligations and contradicts Brazilian national law.⁵

Colombia—In May 2006, the Colombian Constitutional Court ruled that abortion must be permitted when a pregnancy threatens a woman's life or health, and in cases of rape, incest, or where the fetus has certain malformations that make it unable to survive outside the uterus.⁶ Before this, abortion was illegal in Colombia in all circumstances. In October 2009, the Colombian Court reinforced the 2006 decision by stating that when abortion is legal, women "enjoy a right to decide, free from any pressure, coercion, urging, manipulation and, in general, any sort of inadmissible intervention to terminate a pregnancy...it is forbidden to raise any obstacles, requirements or additional barriers."⁷

Dominican Republic—In 2009, the Dominican Constitution was amended to add that the right to life exists from the moment of conception.⁸ The amendment was passed despite constant and vocal objections from feminist and human rights organizations, and it makes abortion illegal even in the most horrific cases of incest or rape.⁹

Mexico—On April 24, 2007, Mexico City's legislature voted to make abortion legal in the first trimester.¹⁰ Any termination of a pregnancy before 12 weeks gestation is no longer a crime. However, Mexican officials have a well-documented history of actively hindering women's right to procure legal abortion, even when officials know without a doubt that the abortion sought is allowed by law.¹¹ In the first year the law passed, the application of the law has proved difficult, as nearly 85% of gynecologists in the city's public hospitals have declared themselves objectors, and some women are also reporting that in the hospitals that provide abortions, the nurses are hostile and demeaning, proving to be constant hurdles.¹² Shortly after the law was approved, the Mexican Attorney General and the National Commission on Human Rights challenged that the law was unconstitutional, questioning the competence of the Mexico City Legislative Assembly to alter the Penal Code and the Health Law of the Federal District to legalize abortion.¹³ However, in a landmark decision for women's rights, the Supreme Court of Mexico voted 8-3, rejecting the constitutional challenge, and upholding the law.¹⁴

Nicaragua—On October 26, 2006, Nicaragua's congress passed a complete ban on abortion.¹⁵ The ban contains no exceptions for women's health, for victims of rape or incest, or for women whose lives are threatened by the pregnancy.¹⁶ The National Assembly enacted the ban during the highly contested 2006 presidential campaign¹⁷ at the behest of Catholic and evangelical church leaders.¹⁸ Prior to this ban, therapeutic abortion was legal if it was necessary to save the woman's life and if she and three physicians consented to it.¹⁹ In response to the new law, the Inter-American Commission on Human Rights issued a statement that the total abortion ban is contrary to international law and endangers women's human rights.²⁰ In August of 2007, The Human Rights Watch found that in less than a year of the enactment of the new law, while no doctors have been prosecuted for performing abortions, the mere possibility of criminal charges has already had a deadly effect.²¹ The organization has called on the Nicaraguan government to protect women's human rights.²² Nicaragua has a high rate of maternal mortality, largely due to unsafe, illegal abortion practices.



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Peru—In June 2009, L.C., a 16-year-old Peruvian rape survivor, filed a human rights petition against Peru before CEDAW for its failure to implement measures to guarantee women’s access to legal abortion.²³ L.C., a 13-year-old at the time, attempted to end her life by jumping off a roof after discovering she was pregnant as the result of repeated rapes by a 34-year-old man. However, when she was rushed to the hospital, her doctors refused to perform a necessary spinal operation on her because she was pregnant, even though abortion is legal in Peru to save a woman’s health or life. L.C. did not receive the surgery until months later, after she had miscarried due to her injuries, but because of the delay, she will likely be permanently paralyzed.

The Peruvian government has still failed to abide by the United Nations Human Rights Committee’s (UNHCR) ruling in *K.L. v. Peru* (2005), which found the Peruvian government at fault for failing to ensure access to legal abortion services and ordered Peru to provide K.L. with reparations. K.L. was forced by state-employed health officials to carry a fetus to term after it was diagnosed with anencephaly, a fatal anomaly in which the fetus is missing most or all of the forebrain.²⁴ She was also forced to breast-feed the baby for the four days it lived. In October 2009, a legislative committee confirmed its support for a bill that would expand an existing law to include rape or fetal deformity as circumstances in which legal abortion is allowed.²⁵

United States of America—On April 18, 2007, the United States Supreme Court ruled 5-4 in *Gonzales v. Carhart/Gonzales v. Planned Parenthood* that the federal Partial Birth Abortion Ban Act of 2003 was constitutional.²⁶ This ban makes it a federal crime to “deliberately and intentionally vaginally deliver a living fetus” past certain anatomical landmarks “for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.”²⁷ While there is an exception to save the woman’s life, there is no exception to protect her health.²⁸

Uruguay—On November 6, 2008, Uruguayan senators voted to ease the country’s abortion laws. The Senate vote gave preliminary approval to a bill that would have allowed women to have an abortion in the first 12 weeks of pregnancy on grounds that include economic or social hardship or “circumstances linked to how the conception took place.” However, Uruguay’s President successfully blocked the bill with a veto on November 14 of the same year.²⁹ Abortion remains illegal in Uruguay.

¹ Andrew Downie, *Abortions in Brazil, though Illegal, Are Common*, TIME, June 2, 2010, available at <http://www.time.com/time/world/article/0,8599,1993205,00.html>.

² Andrew Downie, *Nine-Year Old’s Abortion Outrages Catholic Church*, TIME, March 6, 2009, available at <http://www.time.com/time/world/article/0,8599,1883598,00.html>.

³ *Id.*

⁴ Press Release, Ctr. for Reprod. Rts., On this International Day of Action for Women’s Health, Center Calls on Brazil to Defeat Unprecedented Fetal Rights Bill (May 24, 2010), available at <http://reproductiverights.org/en/press-room/on-this-international-day-of-action-for-women%E2%80%99s-health-center-calls-on-brazil-to-defeat-u>.

⁵ *Id.*

⁶ *In re Abortion Law Challenge in Colombia*, CTR. FOR REPROD. RTS., <http://reproductiverights.org/en/case/in-re-abortion-law-challenge-in-colombia-amici-constitutional-court-of-colombia> (last visited June 16, 2011).

⁷ Press Release, Ctr. for Reprod. Rts., Center Praises Momentous Decision in Abortion Case in Columbia (Oct. 27, 2009), available at <http://reproductiverights.org/en/press-room/center-praises-momentous-decision-in-abortion-case-in-colombia>.

⁸ *Dominican Republic Approves Constitutional Amendment to Outlaw Abortion*, WOMENSPHERE (May 12, 2009), available at <http://womensphere.wordpress.com/2009/05/12/dominican-republic-approves-constitutional-amendment-to-outlaw-abortion/>.

⁹ *Id.*

¹⁰ Press Release, Ctr. for Reprod. Rts., The Center for Reproductive Rights Commends Mexico City for New Law Legalizing Abortion in First Trimester (April, 24, 2007), available at <http://reproductiverights.org/en/press-room/the-center-for-reproductive-rights-commends-mexico-city-for-new-law-legalizing-abortion-i>.

¹¹ *Mexico: The Second Assault (Obstructing Access to Legal Abortion After Rape in Mexico)*, HUMAN RIGHTS WATCH (Mar. 6, 2006), available at <http://www.hrw.org/en/reports/2006/03/06/mexico-second-assault>.



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¹² [Elisabeth Malkin](http://www.nytimes.com/2008/08/25/world/americas/25mexico.html) & Nacha Cattan, *Mexico City Struggles with Law on Abortion*, N.Y. TIMES, August 24, 2008, available at <http://www.nytimes.com/2008/08/25/world/americas/25mexico.html>.

¹³ *Mexican Supreme Court upholds Mexico City abortion law by overwhelming majority*, IPAS (August 20, 2008), available at

http://www.ipas.org/Library/News/News_Items/Mexican_Supreme_Court_upholds_Mexico_City_abortion_law_by_overwhelming_majority.aspx.

¹⁴ *Id.*

¹⁵ *On Second Anniversary, Nicaraguan Abortion Ban Continues to Draw Protests*, IPAS (Nov. 18, 2008), available at

http://www.ipas.org/Library/News/News_Items/On_second_anniversary_Nicaraguan_abortion_ban_continues_to_draw_protests.aspx.

¹⁶ CTR. FOR REPROD. RTS., THE WORLD'S ABORTION LAWS FACT SHEET, (May 2008), available at

http://reproductiverights.org/sites/crr.civicactions.net/files/pub_fac_abortionlaws2008.pdf [hereinafter CRR Fact Sheet].

¹⁷ *Nicaragua: Blanket Ban on Abortion Harms Women*, HUMAN RIGHTS WATCH,

<http://www.hrw.org/en/news/2007/08/29/nicaragua-blanket-ban-abortion-harms-women> (last visited June 29, 2011).

¹⁸ Marc Lacey, *Nicaragua Passes Total Ban on Abortion*, THE NEW YORK TIMES, Oct. 27, 2006, available at,

<http://www.nytimes.com/2006/10/27/world/americas/27nicaragua.html?pagewanted=print>.

¹⁹ U.N. POPULATION DIV., DEP'T OF ECON. & SOC. AFFAIRS, ABORTION POLICIES: A GLOBAL REVIEW (2002), available at

<http://www.un.org/esa/population/publications/abortion/> (click on "Country Profiles" and then "Nicaragua").

²⁰ Press Release, Ctr. for Reprod. Rts., *Inter-American Commission Issues Landmark Statement Declaring Nicaragua's Abortion Ban Jeopardizes Women's Human Rights* (Dec. 1, 2006), <http://reproductiverights.org/en/press-room/inter-american-commission-issues-landmark-statement-declaring-nicaragua%E2%80%99s-abortion-ban-je>.

²¹ HUMAN RIGHTS WATCH, *OVER THEIR DEAD BODIES, DENIAL OF ACCESS TO EMERGENCY OBSTETRIC CARE AND THERAPEUTIC ABORTION* vol. 19, No.2(B) (Oct. 2007) at 6, available at

http://www.essex.ac.uk/armedcon/story_id/overtheirdeadbodies.pdf.

²² *Id.*

²³ Press Release, Ctr. for Reprod. Rts., *Teen Rape Victim Files Case Against Peru in U.N. Committee* (June 18, 2009),

<http://reproductiverights.org/en/press-room/teen-rape-victim-files-case-against-peru-in-un-committee>.

²⁴ *Id.*; Press Release, Ctr. for Reprod. Rights, *UN Human Rights Committee Makes Landmark Decision Establishing Women's Right to Access Legal Abortion* (Nov. 17, 2005), <http://reproductiverights.org/en/press-room/un-human-rights-committee-makes-landmark-decision-establishing-womens-right-to-access-to-..>

²⁵ Graciela Rodriguez-Ferrand, *Peru: Congress Debates Legislation Decriminalizing Abortion*, GLOBAL LEGAL MONITOR (Nov. 6, 2009), http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205401659_text.

²⁶ 550 U.S. 124, 168 (2007).

²⁷ *Id.* at 142.

²⁸ *Id.* at 129, 141.

²⁹ *Uruguay Head Vetoes Abortion Bill*, BBC NEWS, Nov. 14, 2008, available at

<http://news.bbc.co.uk/2/hi/americas/7728597.stm>; *Uruguay Lawmakers Fail to Override Presidential Veto of Bill that Would Decriminalize Abortion*, MEDICALNEWSTODAY.COM, <http://www.medicalnewstoday.com/articles/130673.php> (last visited June 29, 2011).